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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,000	11/26/2003	Gina Sparacino	P06359US00	9566

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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/723,000
Filing Date: November 26, 2003
Appellant(s): SPARACINO, GINA

Kirk Hartung
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/25/05.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Claimed Subject Matter*

The summary of claimed subject matter contained in the brief is correct.

(6) *Grounds of Rejection to be Reviewed on Appeal*

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) *Response to Argument*

Applicant argued that "the auxiliary or second stirrup 5 of Seal is in front of the primary stirrup, as seen in Figure 6. With the rider's right foot in the front stirrup 5 of Seal, the rider must cross his/her legs in order to place their left foot in the rear primary stirrup".

As mentioned in the remarks above, nowhere in the disclosure of Seal et al. states that the rider must cross his/her legs in order to place the left foot in the rear

Art Unit: 3643

primary stirrup. It is clearly shown in figs. 6-8 that crossing over of legs does not occurred because fig. 6 shows that the right foot is stepped on the stirrup 5, which is longer than stirrup 10, and then left foot is stepped on stirrup 10 (fig. 7), and then right foot swings over the back of the horse. Stirrup 5 is in front of stirrup 10 so there shouldn't be any cross over as alleged by Applicant. This concept is very much similar to that of Applicant if one was to call the stirrup 5 of Seal primary stirrup and stirrup 10 being auxiliary stirrup, thus, demonstrating that there is no cross over of legs existing. Note, the Examiner is not saying that stirrup 10 is auxiliary or stirrup 5 is primary because, clearly, stirrup 10 is primary for one skill in the art to recognize. However, the Examiner is saying that there is no cross over of legs in Seal et al. and that placement of secondary stirrup 5 in the front in Seal et al. instead of in the back as claimed in the present invention is substitution of equivalent because both front or rear would perform the same function without crossing over (see remarks above).

In searching for patentable subject matter, the Examiner noted that all prior arts do not show the strap being mounted behind the seat of the saddle, thus, the Examiner relies on the specification for a critical reason why the strap had to be mounted behind the seat. However, upon reading the specification, there was not a critical reason pointed out that may distinguished it from the prior arts. All critical reasons provided in the specification were pretty much the same as the prior art, esp. US 5347797. Explanation in the specification only states general concept of usage of an auxiliary stirrup. For example, on page 1, paragraph 4, Applicant states that the auxiliary stirrup used in 797 would require a rider to cross his/her legs when mounting a horse. This is

Art Unit: 3643

not so in the teaching of 797, for throughout 797's patent, there is no mentioned that the rider would have to cross his/her legs when mounting the horse. In contradiction, 797 shows similar mounting style as that of the present invention, i.e. right leg on the auxiliary stirrup, left stepped on primary stirrup, swinging the right leg to mount the horse (see figs. 6-8 and col. 2, lines 60-68, col. 3, lines 1-5). Furthermore, on page 2 of the present invention, the objectives are similar to that of 797, even with the strap being mounted rearwardly, so there seems to lack a critical reason why mounting the strap rearwardly of the saddle would be better than mounting the strap in front as taught in 797. Moreover, on page 4, paragraph 3, Applicant states that by having "the foot loop 28 located below and behind the main stirrup 16, a rider can face the horse for mounting, which can be quickly and easily accomplished without a crossover step or crossing the legs", which to the Examiner, is the same as taught by 797 by mounting the foot loop ahead of the main stirrup because the rider, as shown in fig. 6, still faces the horse for mounting, which is the same as shown in fig. 3 of Applicant's invention. Therefore, it is deemed that by placing the strap in front or behind the seat of the saddle would merely be a substitution of functional equivalent whether the strap was placed in front as taught by 797 or behind as claimed by Applicant of the seat of the saddle, for both mounting styles would allow a rider to mount the horse easier.

For the above reasons, it is believed that the rejections should be sustained.

Application/Control Number: 10/723,000
Art Unit: 3643



Page 5

Respectfully submitted,

Son T. Nguyen
Primary Examiner
Art Unit 3643



stn
July 18, 2005

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